

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JERALD LEROY WINGEART,

Petitioner,

v.

Case No. 05-CV-74144-DT

MILLICENT WARREN,

Respondent.

**ORDER GRANTING PETITIONER'S "MOTION TO AMEND BRIEF
IN SUPPORT OF WRIT OF HABEAS CORPUS PETITION"
AND DENYING WITHOUT PREJUDICE RESPONDENT'S "MOTION TO DISMISS"**

Petitioner Jerald Leroy Wingeart has filed a *pro se* petition for a writ of habeas corpus. Now before the court is Petitioner's "Motion to Amend Brief in Support of Writ of Habeas Corpus Petition."

Federal Rule of Civil Procedure 15 permits a party to amend a pleading once as a matter of course at any time before a responsive pleading is served. Petitioner filed his motion prior to a response being filed by Respondent. Therefore, this court will permit Petitioner to amend his brief and shall deem filed the amended brief attached to his motion.

The court notes that on May 8, 2006, Respondent filed a motion to dismiss, attacking the original petition. The court will therefore deny the motion without prejudice and allow Respondent a period of twenty-eight days from the date of this order to review Petitioner's amended brief and file the appropriate response or motion.

Accordingly, IT IS ORDERED that Petitioner's "Motion to Amend Brief in Support of Writ of Habeas Corpus Petition" [Dkt. # 4] is GRANTED.

IT IS FURTHER ORDERED that Respondent's "Motion to Dismiss" [Dkt. # 6] is DENIED WITHOUT PREJUDICE. Respondent shall file either a response to the amended petition or a renewed motion to dismiss within **twenty-eight days** from the date of this order.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 12, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 12, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522